

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION**

March 1, 2007

DOCKET NO 9-58-06

Change in zoning from R-6 multi-family residential to R-7 multi-family residential on property located at 129 N. Shelby & 800, 802, and 804 Franklin Street (Tax Block 19F, Lot Numbers 154, and 97 - 99), containing 0.759 acres and being in Louisville Metro.

Project Name:	Edison Park
Owner/Applicant:	Sycamore Station LLC Attention: David Buchart 10307 Worthington Lane Prospect, KY 40059
Attorney:	Paul B. Whitty Greenebaum, Doll & McDonald 3500 National City Tower Louisville, KY 40202
Engineer/Designer:	Kevin Young Land Design & Development, Inc. 503 Washburn Avenue Suite 101 Louisville, KY 40222
Existing Use:	Vacant
Proposed Use:	Multi-family residential
Form District:	Traditional Neighborhood
Project Size/Area:	1.1 acres
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Staff Case Manager:	Kristen Millwood, Planner II (presented by Christopher French, AICP)

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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The following spoke in favor of this request:

Paul B. Whitty, Greenebaum, Doll & McDonald, 3500 National City Tower,
Louisville, KY 40202

David Buchart, Sycamore Station LLC, 10307 Worthington Lane, Prospect, KY
40059

Ken Brown, Design Plus, 1449 Bardstown Road, Louisville, KY

The following spoke in opposition:

No one spoke.

Interested Parties:

No one spoke.

Agency Personnel:

Christopher French, Planning Coordinator, Planning & Design Services

AGENCY TESTIMONY:

Christopher French presented the case and showed a Power Point presentation with maps and photos of the site and surrounding area. This site is located in the Butchertown Historic District. The applicant has requested that they be permitted to use the Traditional Design Alternative (see staff report.)

Mr. French noted that a binding element dealing with outdoor music and PA systems, which is not applicable to a residential development, should be deleted. Mr. French also said that the applicant had previously applied for a variance for the private yard; this variance is not needed because the applicant is now applying for the Traditional Design Alternative.

SUMMARY OF TESTIMONY OF PROPONENTS:

Paul Whitty, the applicant's representative, showed a Power Point presentation. He said this development was a good transition from the area to the west. The presentation included floor plans and elevations. He discussed landscaping, as well as benches, planters, and other outdoor amenities. He also discussed the proposed rooftop gardens.

Commissioner Hamilton asked about the inclusion of "green" building design elements. David Buchart, the developer, said energy-saving furnaces, water

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heaters, and other appliances will be used. He also discussed some other plans for the design.

Commissioner Carlson asked about some safety features on the catwalk. Ken Brown explained that this will be more of a decorative feature and people won't be walking on it. Mr. Brown also described ideas for the guardrail design features on the rooftop gardens.

SUMMARY OF TESTIMONY OF OPPONENTS:

No one spoke.

SUMMARY OF TESTIMONY OF INTERESTED PARTIES:

No one spoke.

REBUTTAL:

There was no rebuttal since no one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 1, 2007 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

Zoning

On a motion by Commissioner Hamilton, the following resolution was adopted:

WHEREAS, the Applicant has requested a change in zoning from R-6 Multi-family Residential to R-7 Multi-family Residential on two tracts totaling 1.1 acres located at 129 N. Shelby Street, 803, 805, 809 and 811 East Washington Street and 800 Franklin Street (the "Subject Property") to permit a residential condominium project involving the combination of adaptive reuse of existing structures as well as new construction design which is compatible with and complimentary to the Butchertown neighborhood, and the approval of a Traditional Neighborhood Design Alternative for both Tract 1 and Tract 2 of the Subject Property pursuant to LDC 5.4.1 (H); and

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WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the Community Form Guideline 1 and all applicable policies thereunder because the Plan incorporates both existing and emerging patterns of development are compatible with the scale, rhythm, form and function of existing development and pattern of uses all of which incorporate building materials and architectural styles compatible with the Butchertown neighborhood and will preserve the existing streetscape pattern and pedestrian orientation which connects to and incorporates the existing grid pattern of streets, sidewalks and alleys appropriate for high density residential development; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.3, 3.6, 3.8, 3.9, 3.14, 3.23, and 3.28 because the proposal is consistent with the Traditional Neighborhood Form District and the existing pattern of development in terms of use, form and scale and building materials and is compatible with adjacent residential uses where, despite creating a mixture of densities, it respects the existing architectural styles and street orientation at the intersection of two neighborhood thoroughfares and will have a beneficial impact on the visual character of the area as it will repair and renovate existing structures that have deteriorated in recent years and will offer the neighborhood additional housing options and this multi-family development provides an appropriate transition between the predominately single family uses to the east and the industrially zoned and used properties to the west; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the Subject Property provides 13,295 square feet of open space which is accessible, functional, well-designed and permanently protected which meets the residents' need for private and communal space and the location and design of the open spaces is appropriate for the urban infill character of the proposed development in providing a variety of settings which vary in their public accessibility (physically and visually), privacy and security for recreation and relaxation adhering to the policy that "Traditional Neighborhoods may have less formal open space designed as greens and parks" and the unique design and increased volume of the open space mitigates the otherwise required form of the Traditional Neighborhood Design Guidelines; and

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WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the development conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.3, 7.10 and 7.13 because the Subject Property is in an area with an historic pattern of grid system streets and alleys more than adequate to accommodate the additional residential units without requiring alteration or additional improvements and the Subject Property is transit supportive as it will utilize and improve pedestrian use and the TARC system in the neighborhood. Adequate parking facilities are provided with a minimum of 38 spaces required and 54 spaces provided; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Bicycles, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder including 9.1 and 9.2 because the Subject Property is surrounded by sidewalks portions of which will be repaired and internal pedestrian connections attach to public sidewalks and lead to the units, parking facilities and surface level open space integrating into the existing grid pattern of streets and sidewalks in the neighborhood and TARC Route #15 (Market Street) runs along Story Avenue two blocks from the development. Bicycle racks are provided as shown on the Plan which are accessible to the residents and their guests; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.3, 10.6, 10.7, 10.9, 10.10, and 10.11 because the Subject Property is entirely out of the flood plain and has received the approval of the Metropolitan Sewer District ("MSD") indicating that post-construction runoff will not exceed pre-development rates based on a fully developed watershed and the "through" drainage capacity will be preserved and vehicular access will be provided above the level of the 100-year flood; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the

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proposal conforms to Water Quality Guideline 11 and all applicable Policies adopted thereunder, including Policy 11.3 because construction adheres to MSD best practices and shall be conducted in compliance with all applicable codes relating to erosion and sediment control and an Erosion and Sediment Control Plan ("EPSC") shall be submitted to MSD for approval prior to site disturbance; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1, 12.2, 12.3, 12.7, and 12.8 because the letter dated September 12, 2006 from Tom Pinto, Technical Coordinator, Air Pollution Control District states that will not have an adverse impact to national ambient air quality standards for carbon monoxide and sidewalks are provided throughout the development to provide an alternative to motorized transportation; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.2, 13.4, 13.5, and 13.7 because native plant species will be utilized within landscaping areas provided throughout the Subject Property and an enhanced level of landscaping will be provided in the roof gardens and street trees will be provided as shown on the Plan and this development is providing 4,320 square feet of landscaping on Tract 1, including 6 street trees and on Tract 2, 1,920 square feet of landscaping is provided; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6, and 14.7 because the proposed development is an urban infill development served by existing utilities and sewer service will be provided for by MSD facilities and there is an adequate supply of portable water and water for fire-fighting purposes is available to the site from the Louisville Water Company and utilities will be located underground and utility easements will be designed to provide access for maintenance and repair and to minimize negative visual impacts; and

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WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because the site will be adequately served by the Louisville Urban Services Second Fire Protection District; and

WHEREAS, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the detailed district development plan is approvable under the Traditional Neighborhood Design Alternative because the proposed open space is offered in connection with the Traditional Neighborhood Design Alternative [LDC 5.4.1 (H)] includes roof gardens which provide a private, intimate area where residents can gather, cook out, play, etc. within the privacy and protection of their own property; and while the design of Tract 2 of the Subject Property may not meet the “traditional” approach for the backyard and accessory buildings, it does use those elements in an alternative way that better support the intent of the Guidelines and if this development had not been submitted as a Traditional Neighborhood Design Alternative variances would have been required, i.e., Section 5.4.1(C)(6)(b), Table 5.2.2 and additionally, 7,505 square feet of common open space on Tract 1 includes additional grassy areas (green space) as reviewed and approved by the Landmarks Commission. The specific detail of the landscaping as well as precise placement of benches and planters will be submitted with the landscape plan review prior to construction; and the necessity to preserve and adaptively reuse buildings and architectural elements make it impossible to meet the standards with respect to private yards and accessory structures; and although Tract 2 involves entirely new construction, relief from the traditional form is warranted so that the development will be internally consistent to ensure a more consistent streetscape on both North Shelby and Franklin Street (which was preferred by the Butchertown Neighborhood Association), and provides a more attractive, secure and marketable development; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville Metro Government that the change in zoning **from R-6 multi-family residential to R-7 multi-family residential** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Storm, Queenan, Abstain, Wells-Hatfield, Hamilton, Howard, and Blake.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

Development Plan and use of the Traditional Design Alternative

On a motion by Commissioner Hamilton, the following resolution was adopted:

RESOLVED, That the Louisville and Jefferson Planning Commission does hereby **APPROVE** the Detailed District Development Plan for **Docket No. 9-58-06**; and the use of the Traditional Design Alternative, **subject to the following binding elements**:

Proposed Binding Elements – Docket #9-58-06V

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 22 dwelling units per acre (9 units on 0.41 acres) on tract two and 25.4 dwelling units per acre (16 units on 0.63 acres) on tract one.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit, this plan shall include the planting details outlined within the preliminary landscape exhibit date received Feb. 6, 2007 . Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs,

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successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 1, 2007 Planning Commission meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Storm, Queenan, Abstain, Wells-Hatfield, Hamilton, Howard, and Blake.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.